

Adopted	Rejected
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## COMMITTEE REPORT

YES:	9
NO:	1

### MR. SPEAKER:

*Your Committee on* Public Policy and Veterans Affairs, to which was referred Senate Bill 382, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:

- 1       Page 1, between the enacting clause and line 1, begin a new
- 2       paragraph and insert:
- 3       "SECTION 1. IC 7.1-1-3-5.5 IS ADDED TO THE INDIANA
- 4       CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 5       [EFFECTIVE JULY 1, 2005]: **Sec. 5.5. "Alcohol vaporizing device"**
- 6       **means a device or machine that mixes:**
- 7               **(1) liquor; or**
- 8               **(2) another product containing alcohol;**
- 9       **with oxygen to produce a vaporized product for the purpose of**
- 10       **consumption by inhalation.**
- 11       SECTION 2. IC 7.1-1-3-48.5 IS ADDED TO THE INDIANA
- 12       CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 13       [EFFECTIVE JULY 1, 2005]: **Sec. 48.5. "Vaporized alcohol" means**
- 14       **a vaporized product that:**
- 15               **(1) is created in an alcohol vaporizing device;**
- 16               **(2) contains liquor or another product containing alcohol; and**

1           **(3) is inhaled through the mouth and nose.**

2           SECTION 3. IC 7.1-2-2-2 IS AMENDED TO READ AS  
3           FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. ~~Qualifications~~  
4           ~~and Appointment.~~ The prosecutor shall be appointed by the governor  
5           for a term of four (4) years to be served at the pleasure of the governor.  
6           The prosecutor shall be a resident of the state and a practicing member  
7           of the Indiana bar. ~~for at least five (5) years preceding his appointment.~~

8           SECTION 4. IC 7.1-3-1-3 IS AMENDED TO READ AS  
9           FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) A permit of  
10          any type issued by the commission, except as provided in subsections  
11          (b) and (f) or unless otherwise provided in this title, shall be in force for  
12          one (1) calendar year only, including the day upon which it is granted.  
13          At the end of the one (1) year period the permit shall be fully expired  
14          and null and void.

15          (b) Notwithstanding subsection (a), ~~in a county containing a~~  
16          ~~consolidated city~~, a permit that is subject to section 5.5 or 5.6 of this  
17          chapter is effective for two (2) calendar years, including the day upon  
18          which the permit is granted. However, a local board may recommend  
19          to the commission that the permit be issued or renewed for only a one  
20          (1) year period. The commission may issue or renew a permit for the  
21          period recommended by the local board.

22          (c) A permittee who is granted a two (2) year permit under  
23          subsection (b) or subsection (f) is liable for any annual fees assessed by  
24          the commission. The annual fee is due on the annual anniversary date  
25          upon which the permit was granted.

26          (d) If the commission grants a two (2) year permit, the commission  
27          may ask a local board to hold a hearing to reconsider the duration of a  
28          permittee's permit. A hearing held under this subsection is subject to  
29          section 5.5 or 5.6 of this chapter. A local board shall hold the hearing  
30          requested by the commission within thirty (30) days before the  
31          permittee's next annual anniversary date and forward a recommendation  
32          to the commission following the hearing.

33          (e) If a permittee is granted a permit for more than one (1) year, the  
34          commission ~~may~~ **shall** require the permittee to file annually with the  
35          commission the information required for an annual permit renewal.

36          (f) Notwithstanding subsection (a), the following are effective for  
37          two (2) calendar years, including the day upon which the permit is  
38          granted:

1 (1) A beer wholesaler's permit issued under IC 7.1-3-3-1.

2 (2) A wine wholesaler's permit issued under IC 7.1-3-13-1.

3 (3) A liquor wholesaler's permit issued under IC 7.1-3-8-1.

4 SECTION 5. IC 7.1-3-1-14 IS AMENDED TO READ AS  
5 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) It is lawful  
6 for an appropriate permittee, unless otherwise specifically provided in  
7 this title, to sell alcoholic beverages each day Monday through  
8 Saturday from 7 a.m., prevailing local time, until 3 a.m., prevailing  
9 local time, the following day. Sales shall cease wholly on Sunday at 3  
10 a.m., prevailing local time, and not be resumed until the following  
11 Monday at 7 a.m., prevailing local time.

12 (b) It is lawful for the holder of a ~~supplemental~~ retailer's permit to  
13 sell the appropriate alcoholic beverages on Sunday from 10 a.m.,  
14 prevailing local time, until 12:30 a.m., prevailing local time, the  
15 following day.

16 (c) It is lawful for the holder of a permit under this article to sell  
17 alcoholic beverages at athletic or sports events held on Sunday upon  
18 premises that:

19 (1) are described in section 25(a) of this chapter;

20 (2) are a facility used in connection with the operation of a paved  
21 track more than two (2) miles in length that is used primarily in  
22 the sport of auto racing; or

23 (3) are being used for a professional or an amateur tournament;  
24 beginning one (1) hour before the scheduled starting time of the event  
25 or, if the scheduled starting time of the event is 1 p.m. or later,  
26 beginning at noon.

27 (d) It is lawful for the holder of a valid beer, wine, or liquor  
28 wholesaler's permit to sell to the holder of a valid retailer's or dealer's  
29 permit at any time.

30 SECTION 6. IC 7.1-3-1-18 IS AMENDED TO READ AS  
31 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. ~~Publication of~~  
32 ~~Notice.~~ (a) Whenever, under the provisions of this title, publication of  
33 notice of application for a permit is required, the publication shall be  
34 made in ~~two (2) newspapers of opposite political faith published in the~~  
35 ~~city, town or township one (1) newspaper of general circulation~~  
36 **published in the county** where the permit is to be in effect.

37 (b) ~~If there is only one (1) newspaper published in the city or town,~~  
38 ~~the notice shall be published in that newspaper and in another~~

newspaper of opposite political faith published in the county; if there is one; and if not, then in any newspaper of general circulation published in the county.

(c) If there is no newspaper published in the city or town where the permit is to be in effect, then the publication shall be made in two (2) newspapers published in the city or town nearest to the city or town where the permit is to be in effect.

(d) (b) Publication required by this section may be made in any newspaper of general circulation published one (1) or more times each week.

(e) (c) The rates which shall be paid for the advertising of a notice required under this title shall be those required to be paid in case of other notices published for or on behalf of the state."

Page 3, line 13, after "and" insert "**pays the**".

Page 3, line 21, delete "a pecuniary relationship with the alcoholic beverage".

Page 3, line 22, delete "industry;" and insert "**an interest in a permit issued to a primary source of supply, a wholesaler, or a retailer under this chapter;**".

Page 4, line 18, delete "a" and insert "**the**".

Page 5, between lines 1 and 2, begin a new paragraph and insert:

"SECTION 8. IC 7.1-3-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The holder of a beer wholesaler's permit may purchase and import from the primary source of supply, possess, and sell at wholesale, beer and flavored malt beverages manufactured within or without this state.

(b) A beer wholesaler permittee may possess, transport, sell, and deliver beer to:

(1) another beer wholesaler authorized by the brewer to sell the brand purchased;

(2) a consumer; or

(3) a holder of a beer retailer's permit, beer dealer's permit, temporary beer permit, dining car permit, boat permit, airplane permit, **or** supplemental caterer's permit; **or supplemental retailer's permit;**

located within this state. The sale, transportation, and delivery of beer shall be made only from inventory that has been located on the wholesaler's premises before the time of invoicing and delivery.

(c) Delivery of beer to a consumer shall be made in barrels only with the exception of the beer wholesaler's bona fide regular employees, who may purchase beer from the wholesaler in bottles, cans, or any other type of permissible containers in an amount not to exceed forty-eight (48) pints at any one (1) time.

(d) The importation, transportation, possession, sale, and delivery of beer shall be subject to the rules of the commission and subject to the same restrictions provided in this title for a person holding a brewer's permit.

(e) The holder of a beer wholesaler's permit may purchase, import, possess, transport, sell, and deliver any commodity listed in IC 7.1-3-10-5, unless prohibited by this title. However, a beer wholesaler may deliver flavored malt beverages only to the holder of one (1) of the following permits:

(1) A beer wholesaler or wine wholesaler permit, if the wholesaler is authorized by the primary source of supply to sell the brand of flavored malt beverage purchased.

(2) A wine retailer's permit, wine dealer's permit, temporary wine permit, dining car wine permit, boat permit, airplane permit, **or** supplemental caterer's permit. ~~or supplemental retailer's permit.~~

(f) A beer wholesaler may:

(1) store beer for an out-of-state brewer described in IC 7.1-3-2-9 and deliver the stored beer to another beer wholesaler that the out-of-state brewer authorizes to sell the beer;

(2) perform all necessary accounting and auditing functions associated with the services described in subdivision (1); and

(3) receive a fee from an out-of-state brewer for the services described in subdivisions (1) through (2).

SECTION 9. IC 7.1-3-4-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8. (a) A beer retailer may allow customers to sample beer and flavored malt beverages.**

**(b) Sampling is allowed only:**

**(1) on the beer retailer's permit premises; and**

**(2) during the beer retailer's regular business hours.**

**(c) A beer retailer may not charge for samples provided to the customers.**

**(d) A sample size of beer or flavored malt beverage may not**

1 **exceed six (6) ounces.**

2 SECTION 10. IC 7.1-3-8-3 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The holder  
4 of a liquor wholesaler's permit shall be entitled to sell liquor at  
5 wholesale.

6 (b) A liquor wholesaler shall be entitled to purchase liquor within  
7 this state from a person who holds a distiller's permit, a rectifier's  
8 permit, or a liquor wholesaler's permit. A liquor wholesaler also may  
9 purchase liquor outside this state from the primary source of supply  
10 and, from that source, may transport and import liquor into this state.

11 (c) A liquor wholesaler may sell, transport, and deliver liquor only  
12 to a person who, under this title, holds a:

- 13 (1) liquor retailer's permit;
- 14 (2) supplemental caterer's permit;
- 15 ~~(3) supplemental retailer's permit;~~
- 16 ~~(4) (3) liquor dealer's permit;~~ or
- 17 ~~(5) (4) liquor wholesaler's permit.~~

18 The sale, transportation, and delivery of liquor shall be made only from  
19 inventory that has been located on the wholesaler's premises before the  
20 time of invoicing and delivery, and only in permissible containers and  
21 is subject to the rules of the commission fixing the quantity which may  
22 be sold or delivered at any one (1) time.

23 SECTION 11. IC 7.1-3-9-11 IS AMENDED TO READ AS  
24 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) A liquor  
25 retailer may allow customers to sample the following:

- 26 (1) Beer.
- 27 **(2) Flavored malt beverage.**
- 28 ~~(2) (3) Wines.~~
- 29 ~~(3) (4) Liquors.~~
- 30 ~~(4) (5) Liqueurs and cordials (as defined in 27 CFR 5.22(h)).~~

31 (b) Sampling is permitted only:

- 32 (1) on the liquor retailer's permit premises; and
- 33 (2) during the permittee's regular business hours.

34 (c) A liquor retailer may not charge for the samples provided to  
35 customers.

36 (d) Sample size of wines may not exceed one (1) ounce.

37 (e) In addition to the other provisions of this section, a liquor retailer  
38 who allows customers to sample liquors, liqueurs, or cordials shall

1 comply with all of the following:

2 (1) A liquor retailer may allow a customer to sample only a  
3 combined total of two (2) liquor, liqueur, or cordial samples per  
4 day.

5 (2) Sample size of liqueurs or cordials may not exceed one-half  
6 (1/2) ounce.

7 (3) Sample size of liquors may not exceed four-tenths (0.4) ounce.

8 (f) A sample size of beer may not exceed six (6) ounces.

9 **(g) A sample size of flavored malt beverage may not exceed six**  
10 **(6) ounces.**

11 SECTION 12. IC 7.1-3-10-13 IS AMENDED TO READ AS  
12 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) A liquor  
13 dealer permittee who is a proprietor of a package liquor store may allow  
14 customers to sample the following:

15 (1) Beer.

16 **(2) Flavored malt beverage.**

17 ~~(2)~~ **(3)** Wines.

18 ~~(3)~~ **(4)** Liquors.

19 ~~(4)~~ **(5)** Liqueurs and cordials (as defined in 27 CFR 5.22(h)).

20 (b) Sampling is permitted:

21 (1) only on the package liquor store permit premises; and

22 (2) only during the store's regular business hours.

23 (c) No charge may be made for the samples provided to the  
24 customers.

25 (d) Sample size of wines may not exceed one (1) ounce.

26 (e) In addition to the other provisions of this section, a proprietor  
27 who allows customers to sample liquors, liqueurs, or cordials shall  
28 comply with all of the following:

29 (1) A proprietor may allow a customer to sample not more than a  
30 combined total of two (2) liquor, liqueur, or cordial samples per  
31 day.

32 (2) Sample size of liqueurs or cordials may not exceed one-half  
33 (1/2) ounce.

34 (3) Sample size of liquors may not exceed four-tenths (0.4) ounce.

35 (f) Sample size of beer may not exceed six (6) ounces.

36 **(g) Sample size of flavored malt beverage may not exceed six (6)**  
37 **ounces.**

38 SECTION 13. IC 7.1-3-12-5 IS AMENDED TO READ AS

1 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The holder  
2 of a farm winery permit:

3 (1) is entitled to manufacture wine and to bottle wine produced by  
4 the permit holder's farm winery;

5 (2) is entitled to serve complimentary samples of the winery's  
6 wine on the licensed premises;

7 (3) is entitled to sell the winery's wine on the licensed premises to  
8 consumers either by the glass, or by the bottle, or both;

9 (4) is entitled to sell wine by the bottle or by the case to a person  
10 who is the holder of a permit to sell wine at either wholesale or  
11 retail;

12 (5) is exempt from the provisions of IC 7.1-3-14;

13 (6) is entitled to advertise the name and address of any retailer or  
14 dealer who sells wine produced by the permit holder's winery;

15 (7) for wine described in IC 7.1-1-2-3(a)(4):

16 (A) may allow transportation to and consumption of the wine  
17 on the licensed premises; and

18 (B) may not sell, offer to sell, or allow the sale of the wine on  
19 the licensed premises; ~~and~~

20 (8) is entitled to purchase and sell bulk wine as set forth in this  
21 chapter; **and**

22 **(9) is entitled to sell wine as authorized by this section for**  
23 **carryout on Sunday.**

24 (b) With the approval of the commission, a holder of a permit under  
25 this chapter may conduct business at a second location that is separate  
26 from the winery. At the second location, the holder of a permit may  
27 conduct any business that is authorized at the first location, except for  
28 the manufacturing or bottling of wine.

29 (c) With the approval of the commission, a holder of a permit under  
30 this chapter may, individually or with other permit holders under this  
31 chapter, participate in a trade show or an exposition at which products  
32 of each permit holder participant are displayed, promoted, and sold.  
33 The commission may not grant approval under this subsection to a  
34 holder of a permit under this chapter for more than nine (9) days in a  
35 calendar year.

36 SECTION 14. IC 7.1-3-13-3 IS AMENDED TO READ AS  
37 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The holder  
38 of a wine wholesaler's permit may purchase, import, and transport wine,



brandy, or flavored malt beverage from the primary source of supply. A wine wholesaler may export and transport wine, brandy, or flavored malt beverage by the bottle, barrel, cask, or other container, to points outside Indiana. A wine wholesaler is entitled to sell, furnish, and deliver wine or flavored malt beverage from inventory that has been located on the wholesaler's premises before the time of invoicing and delivery to a wine wholesaler, a wine retailer, a supplemental caterer, a temporary wine permittee, ~~a supplemental retailer~~, and a wine dealer, but not at retail. A wine wholesaler may sell, furnish, and deliver brandy from inventory that has been located on the wholesaler's premises before the time of invoicing and delivery, but not at retail, only to a person who holds a liquor retailer's permit, a supplemental caterer's permit, ~~a supplemental retailer's permit~~, or a liquor dealer's permit. A wine wholesaler also may sell and deliver wine to a consumer, at the consumer's residence, in bottles or other permissible containers in a quantity that does not exceed fifty (50) gallons at any one (1) time.

(b) As used in this section, "brandy" means:

(1) any alcoholic distillate described in 27 CFR 5.22(d) as in effect on January 1, 1983; or

(2) a beverage product that:

(A) is prepared from a liquid described in subdivision (1);

(B) is classified as a cordial or liqueur as defined in 27 CFR 5.22(h) as in effect on January 1, 1997; and

(C) meets the following requirements:

(i) At least sixty-six and two-thirds percent (66 2/3%) of the product's alcohol content is composed of a substance described in subdivision (1).

(ii) The product's label makes no reference to any distilled spirit other than brandy.

(iii) The product's alcohol content is not less than sixteen percent (16%) by volume or thirty-two (32) degrees proof.

(iv) The product contains dairy cream.

(v) The product's sugar, dextrose, or levulose content is at least twenty percent (20%) of the product's weight.

(vi) The product contains caramel coloring.

(c) Nothing in this section allows a wine wholesaler to sell, give, purchase, transport, or export beer (as defined in IC 7.1-1-3-6) unless

1 the wine wholesaler also holds a beer wholesaler's permit under  
2 IC 7.1-3-3-1.

3 (d) A wine wholesaler that also holds a liquor wholesaler's permit  
4 under IC 7.1-3-8 may not:

- 5 (1) hold a beer wholesaler's permit under IC 7.1-3-3;
- 6 (2) possess, sell, or transport beer; or
- 7 (3) sell more than one million (1,000,000) gallons of flavored malt  
8 beverage during a calendar year.

9 SECTION 15. IC 7.1-3-18-9 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) The commission  
11 may issue an employee's permit to a person who desires to act as a clerk  
12 in a package liquor store or as a bartender, waiter, waitress, or manager  
13 in a retail establishment, excepting dining car and boat employees.

14 (b) A permit authorized by this section is conditioned upon the  
15 compliance by the holder with reasonable rules relating to the permit  
16 which the commission may prescribe from time to time.

17 (c) A permit issued under this section entitles its holder to work for  
18 any lawful employer. However, a person may work without an  
19 employee's permit for thirty (30) days from the date shown on a receipt  
20 for a cashier's check or money order payable to the commission for that  
21 person's employee's permit application.

22 (d) A person who, for a package liquor store or retail establishment,  
23 is:

- 24 (1) the sole proprietor;
- 25 (2) a partner, a general partner, or a limited partner in a  
26 partnership or limited partnership that owns the business  
27 establishment;
- 28 (3) a member of a limited liability company that owns the  
29 business establishment; or
- 30 (4) a stockholder in a corporation that owns the business  
31 establishment;

32 is not required to obtain an employee's permit in order to perform any  
33 of the acts listed in subsection (a).

34 (e) An applicant may declare on the application form that the  
35 applicant will use the employee's permit only to perform volunteer  
36 service that benefits a nonprofit organization. It is unlawful for an  
37 applicant who makes a declaration under this subsection to use an  
38 employee's permit for any purpose other than to perform volunteer

- 1 service that benefits a nonprofit organization.
- 2 (f) An applicant is not entitled to an employee's permit if:
- 3 (1) the applicant is serving a sentence for a conviction for
- 4 operating while intoxicated, including any term of probation or
- 5 parole;
- 6 (2) the applicant has:
- 7 (A) more than one (1) but less than three (3) unrelated
- 8 convictions:
- 9 (i) for operating while intoxicated; **and**
- 10 (ii) **that occurred not more than ten (10) years before the**
- 11 **date of the applicant's application for the permit; and**
- 12 (B) ~~less than two (2) years have elapsed after the applicant~~
- 13 ~~completed the applicant's sentence for a conviction for~~
- 14 ~~operating while intoxicated, including any term of probation or~~
- 15 ~~parole or not more than two (2) years before the date of the~~
- 16 **applicant's application for the permit.**
- 17 ~~(3) If the applicant has at least three (3) unrelated convictions for~~
- 18 ~~operating while intoxicated, the applicant may apply to the~~
- 19 **commission for an employee's permit. The commission has the**
- 20 **discretion to grant or deny the issuance of the permit.**
- 21 (g) The commission shall revoke a permit issued to an employee
- 22 under this section if:
- 23 (1) the employee is convicted of a Class B misdemeanor for
- 24 violating IC 7.1-5-10-15(a); or
- 25 (2) the employee becomes ineligible for the issuance of an
- 26 employee's permit under subsection (f).
- 27 The commission may revoke a permit issued to an employee under this
- 28 section for any violation of this title or the rules adopted by the
- 29 commission.
- 30 SECTION 16. IC 7.1-3-18-11 IS AMENDED TO READ AS
- 31 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) The
- 32 commission may issue a temporary bartender's permit to any person
- 33 who is at least twenty-one (21) years of age for any of the following
- 34 purposes:
- 35 (1) To be a bartender at any activity or event for which a
- 36 temporary permit is issued under IC 7.1-3-6 (beer) or IC 7.1-3-16
- 37 (wine).
- 38 (2) To be a bartender at a nonprofit club for a maximum of four

(4) days in a year during the same time that a fair or festival is held in the community where the club is located. However, the commission may only issue a maximum of twenty (20) temporary bartender's licenses for use in one (1) club during one (1) fair or festival.

(b) A temporary bartender's permit is the only license that is required for persons to serve as bartenders for the purposes described in subsection (a).

(c) A temporary bartender at a club may dispense any alcoholic beverage that the club's permit allows the club to serve.

(d) The fee for a temporary bartender's permit is ~~four~~ **five** dollars ~~(\$4): (\$5)~~.

(e) The commission may by rule provide procedures for the issuance of a temporary bartender's permit.

(f) The commission shall revoke a permit issued to a bartender under this section if the bartender is convicted of a Class B misdemeanor for violating IC 7.1-5-10-15(a).

SECTION 17. IC 7.1-3-18.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A person who desires a certificate must provide the following to the commission:

(1) The applicant's name and mailing address and the address of the premises for which the certificate is being issued.

(2) A fee of ~~fifty dollars (\$50):~~ **two hundred dollars (\$200)**.

(b) A separate certificate is required for each location where the tobacco products are sold or distributed.

(c) The fees collected under this section shall be deposited in the enforcement and administration fund under IC 7.1-4-10.

SECTION 18. IC 7.1-3-18.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) A certificate issued by the commission under this chapter must contain the following information:

(1) The certificate number.

(2) The certificate holder's name.

(3) The permanent location of the business or vending machine for which the certificate is issued.

(4) The expiration date of the certificate.

(b) A certificate is:

(1) valid for ~~one (1) year~~ **three (3) years** after the date of

issuance, unless the commission suspends the certificate; and  
 (2) nontransferable.

SECTION 19. IC 7.1-3-18.5-8 IS ADDED TO THE INDIANA  
 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 [EFFECTIVE UPON PASSAGE]: **Sec. 8. (a) As used in this section,**  
**"tobacco retailer" means a person who sells or otherwise**  
**distributes tobacco products at retail.**

**(b) A person who sells or distributes tobacco products to a**  
**tobacco retailer who does not hold a valid tobacco sales certificate**  
**issued by the commission commits a Class A infraction.**

**(c) Each violation of this section constitutes a separate offense.**

SECTION 20. IC 7.1-3-19-5 IS AMENDED TO READ AS  
 FOLLOWS [EFFECTIVE UPON PASSAGE]: ~~Sec. 5. Publication of~~  
~~Notice of Investigation.~~ The commission shall cause ~~two (2) notices~~  
**one (1) notice** of the pending investigation to be published in a  
 newspaper in accordance with the provisions of IC ~~1971~~, 7.1-3-1-18.  
 The publication of ~~notices~~ **the notice** shall be ~~one (1) calendar week~~  
~~apart, and the first publication shall be at least fifteen (15) thirty (30)~~  
 days before the investigation.

SECTION 21. IC 7.1-3-20-2.5 IS AMENDED TO READ AS  
 FOLLOWS [EFFECTIVE UPON PASSAGE]: ~~Sec. 2.5. (a) This~~  
~~section applies notwithstanding IC 7.1-3-16.5.~~

~~(b)~~ **(a)** This section applies to each holder of a permit issued under  
 section 2, 3, or 4 of this chapter.

~~(c)~~ **(b)** A permit holder may sell alcoholic beverages under the terms  
 of the permit on any twelve (12) Sundays during a calendar year.

~~(d)~~ **(c)** Sales under this section may be made only for on-premises  
 consumption.

SECTION 22. IC 7.1-3-20-12 IS AMENDED TO READ AS  
 FOLLOWS [EFFECTIVE UPON PASSAGE]: ~~Sec. 12. The~~  
 commission may issue a three-way permit for the sale of alcoholic  
 beverages to the proprietor of a restaurant which is located outside the  
 corporate limits of an incorporated city or town if the restaurant meets  
 the additional requirements:

(1) It shall be a table service restaurant in which a patron is seated  
 at a table and is served by a waiter or waitress and the food served  
 is predominantly consumed on the premises.

(2) It shall be sufficiently served by adequate law enforcement at

1 its premises.

2 (3) If it does business during seven (7) or more months of each  
 3 year, it shall have had an annual gross food sales of at least one  
 4 hundred thousand dollars (\$100,000) for the three (3) years  
 5 immediately preceding its application for a permit unless the  
 6 permittee is the proprietor of a recreational facility such as a golf  
 7 course, bowling center, or similar facility ~~to which~~  
 8 ~~IC 7.1-3-16.5-2(c) applies.~~ **that has the recreational activity and**  
 9 **not the sale of food and beverages as the principal purpose or**  
 10 **function of the person's business.**

11 (4) If it does business during six (6) or fewer months of each year,  
 12 it shall have had average monthly gross food sales of at least eight  
 13 thousand five hundred dollars (\$8,500) for each month it did  
 14 business for the three (3) years immediately preceding its  
 15 application for a permit.

16 SECTION 23. IC 7.1-3-20-13.5 IS AMENDED TO READ AS  
 17 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13.5.  
 18 Notwithstanding sections 12 and 13 of this chapter, ~~IC 7.1-3-16.5-2(c),~~  
 19 ~~and IC 7.1-3-16.5-3(c),~~ there is no annual or monthly gross food sales  
 20 requirement to obtain a three-way permit ~~or a supplemental retailer's~~  
 21 ~~permit~~ for the sale of alcoholic beverages in a restaurant that is:

- 22 (1) open to the general public; and
- 23 (2) located on:
  - 24 (A) the grounds of a regulation size golf course that has at least
  - 25 nine (9) holes; or
  - 26 (B) the premises of a tennis club that has at least eight (8)
  - 27 regulation size tennis courts.

28 SECTION 24. IC 7.1-3-20-16 IS AMENDED TO READ AS  
 29 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) A permit that  
 30 is authorized by this section may be issued without regard to the quota  
 31 provisions of IC 7.1-3-22.

32 (b) The commission may issue a three-way permit to sell alcoholic  
 33 beverages for on premises consumption only to an applicant who is the  
 34 proprietor, as owner or lessee, or both, of a restaurant facility in the  
 35 passenger terminal complex of a publicly owned airport which is served  
 36 by a scheduled commercial passenger airline certified to enplane and  
 37 deplane passengers on a scheduled basis by a federal aviation agency.  
 38 A permit issued under this subsection shall not be transferred to a

1 location off the airport premises.

2 (c) The commission may issue a three-way, two-way, or one-way  
3 permit to sell alcoholic beverages for on premises consumption only to  
4 an applicant who is the proprietor, as owner or lessee, or both, of a  
5 restaurant within a redevelopment project consisting of a building or  
6 group of buildings that:

- 7 (1) was formerly used as part of a union railway station;
- 8 (2) has been listed in or is within a district that has been listed in  
9 the federal National Register of Historic Places maintained  
10 pursuant to the National Historic Preservation Act of 1966, as  
11 amended; and
- 12 (3) has been redeveloped or renovated, with the redevelopment or  
13 renovation being funded in part with grants from the federal, state,  
14 or local government.

15 A permit issued under this subsection shall not be transferred to a  
16 location outside of the redevelopment project.

17 (d) The commission may issue a three-way, two-way, or one-way  
18 permit to sell alcoholic beverages for on premises consumption only to  
19 an applicant who is the proprietor, as owner or lessee, or both, of a  
20 restaurant:

- 21 (1) on land; or
  - 22 (2) in a historic river vessel;
- 23 within a municipal riverfront development project funded in part with  
24 state and city money. A permit issued under this subsection may not be  
25 transferred.

26 (e) The commission may issue a three-way, two-way, or one-way  
27 permit to sell alcoholic beverages for on premises consumption only to  
28 an applicant who is the proprietor, as owner or lessee, or both, of a  
29 restaurant within a renovation project consisting of a building that:

- 30 (1) was formerly used as part of a passenger and freight railway  
31 station; and
- 32 (2) was built before 1900.

33 The permit authorized by this subsection may be issued without regard  
34 to the proximity provisions of IC 7.1-3-21-11.

35 (f) The commission may issue a three-way permit for the sale of  
36 alcoholic beverages for on premises consumption at a cultural center for  
37 the visual and performing arts to a town that:

- 38 (1) is located in a county having a population of more than four

1           hundred thousand (400,000) but less than seven hundred thousand  
2           (700,000); and

3           (2) has a population of more than twenty thousand (20,000) but  
4           less than twenty-three thousand (23,000).

5           **(g) The commission may issue a three-way permit for the sale of**  
6           **alcoholic beverages for on premises consumption to an applicant**  
7           **who will locate as the proprietor, as owner or lessee, or both, of a**  
8           **restaurant within an economic development area under IC 36-7-14**  
9           **in:**

10           **(1) a town with a population of more than twenty thousand**  
11           **(20,000); or**

12           **(2) a city with a population of more than twenty-seven**  
13           **thousand (27,000) but less than twenty-seven thousand four**  
14           **hundred (27,400);**

15           **located in a county having a population of more than ninety**  
16           **thousand (90,000) but less than one hundred thousand (100,000).**

17           **The commission may issue not more than five (5) licenses under**  
18           **this section to premises within a municipality described in**  
19           **subdivision (1) and not more than five (5) licenses to premises**  
20           **within a municipality described in subdivision (2). The commission**  
21           **shall conduct an auction of the permits under IC 7.1-3-22-9, except**  
22           **that the auction may be conducted at any time as determined by**  
23           **the commission. Notwithstanding any other law, the minimum bid**  
24           **for an initial license under this subsection is thirty-five thousand**  
25           **dollars (\$35,000), and the renewal fee for a license under this**  
26           **subsection is one thousand three hundred fifty dollars (\$1,350).**  
27           **Before the district expires, a permit issued under this subsection**  
28           **may not be transferred. After the district expires, a permit issued**  
29           **under this subsection may be renewed, and the ownership of the**  
30           **permit may be transferred, but the permit may not be transferred**  
31           **from the permit premises.**

32           **(h) After June 30, 2005, the commission may issue not more than**  
33           **ten (10) new three-way, two-way, or one-way permits to sell**  
34           **alcoholic beverages for on premises consumption to applicants,**  
35           **each of whom must be the proprietor, as owner or lessee, or both,**  
36           **of a restaurant located within a district, or not more than five**  
37           **hundred (500) feet from a district, that meets the following**  
38           **requirements:**



1           **(1) The district has been listed in the National Register of**  
 2           **Historic Places maintained under the National Historic**  
 3           **Preservation Act of 1966, as amended.**

4           **(2) A county courthouse is located within the district.**

5           **(3) A historic opera house listed on the National Register of**  
 6           **Historic Places is located within the district.**

7           **(4) A historic jail and sheriff's house listed on the National**  
 8           **Register of Historic Places is located within the district.**

9           **The legislative body of the municipality in which the district is**  
 10          **located must adopt an ordinance requesting the commission to**  
 11          **issue the permit to the applicant. An applicant may not be the**  
 12          **holder of a permit to sell alcoholic beverages that is subject to**  
 13          **IC 7.1-3-22 and is for premises located within the district described**  
 14          **in this section or within five hundred (500) feet of the district. A**  
 15          **permit issued under this subsection shall not be transferred to**  
 16          **another location. Nothing in this subsection affects or restricts an**  
 17          **alcoholic beverage permit issued before July 1, 2005."**

18          Page 5, between lines 23 and 24, begin a new paragraph and insert:

19          "SECTION 26. IC 7.1-3-23-43 IS ADDED TO THE INDIANA  
 20          CODE AS A NEW SECTION TO READ AS FOLLOWS  
 21          [EFFECTIVE JULY 1, 2005]: **Sec. 43. (a) The commission may**  
 22          **suspend the permit of a permit holder if:**

23               **(1) the permit holder has not paid the person who sold the**  
 24               **permit to the permit holder in accordance with the terms of**  
 25               **the sale;**

26               **(2) the seller of the permit receives a judgment against the**  
 27               **permit holder in an action to obtain payment for the permit**  
 28               **in accordance with the terms of the sale; and**

29               **(3) the seller of the permit sends a certified copy of the**  
 30               **judgment to the commission.**

31          **(b) Before suspending a certificate under this section, the**  
 32          **commission shall provide written notice to the permit holder and**  
 33          **conduct a hearing. The commission shall provide written notice of**  
 34          **the suspension to the permit holder.**

35          **(c) If a person who sells a permit:**

36               **(1) sends a judgment to the commission under subsection (a);**  
 37               **and**

38               **(2) subsequently receives full payment of the judgment;**

1 the seller shall notify the commission in a manner prescribed by the  
 2 commission that the seller has received full payment of the  
 3 judgment not later than ten (10) days after receiving the payment.

4 SECTION 27. IC 7.1-3-25 IS ADDED TO THE INDIANA CODE  
 5 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 6 UPON PASSAGE]:

7 **Chapter 25. Product Transfer Between Wholesalers**

8 **Sec. 1.** As used in this chapter, "existing wholesaler" means a  
 9 beer wholesaler who distributes a product at the time a successor  
 10 primary source of supply acquires rights to a product under section  
 11 5 of this chapter.

12 **Sec. 2.** As used in this chapter, "product" means an existing  
 13 brand of:

14 (1) beer (as defined in IC 7.1-1-3-6); or

15 (2) flavored malt beverage (as defined in IC 7.1-1-3-16.7).

16 **Sec. 3.** As used in this chapter, "successor" means a primary  
 17 source of supply that acquires rights to a product under section 5  
 18 of this chapter.

19 **Sec. 4.** As used in this chapter, "successor's designee" means one  
 20 (1) or more beer wholesalers designated by a successor to replace  
 21 the existing wholesaler, for all or part of the existing wholesaler's  
 22 territory, in the distribution of the existing product.

23 **Sec. 5.** A successor:

24 (1) who acquires the rights to manufacture or distribute an  
 25 existing product; and

26 (2) who:

27 (A) does not reappoint the existing wholesaler to distribute  
 28 the product;

29 (B) reduces the existing wholesaler's territory for the  
 30 product; or

31 (C) offers to compensate the existing wholesaler in an  
 32 amount less than the fair market value determined under  
 33 section 7 of this chapter;

34 must comply with this chapter. A successor's designee must also  
 35 comply with this chapter.

36 **Sec. 6.** The successor shall notify the existing wholesaler of the  
 37 successor's intent not to appoint the existing wholesaler for all or  
 38 a part of the existing wholesaler's territory for the product. The

1       successor shall mail the notice by certified mail, return receipt  
2       requested, to the existing wholesaler. The successor shall include in  
3       the notice the names, addresses, and telephone numbers of the  
4       successor's designees.

5       **Sec. 7.** A successor's designee shall negotiate with the existing  
6       wholesaler to determine the fair market value of the existing  
7       wholesaler's right:

8           (1) to distribute the product in the existing wholesaler's  
9           territory immediately before the successor acquired rights to  
10          the product under section 5 of this chapter; and

11          (2) as determined in an arms length transaction entered into  
12          without duress or threat of termination of the initial  
13          wholesaler's right described in subdivision (1).

14       **Sec. 8.** The existing wholesaler shall continue to distribute the  
15       product until payment of the compensation agreed to under section  
16       7 of this chapter or awarded under section 11 of this chapter is  
17       received.

18       **Sec. 9. (a)** The successor's designee and the existing wholesaler  
19       shall negotiate in good faith. If the parties fail to reach an  
20       agreement not later than thirty (30) days after the existing  
21       wholesaler receives the notice under section 6 of this chapter, the  
22       successor's designee or the existing wholesaler may send a written  
23       notice to the:

24           (1) other party; and

25           (2) American Arbitration Association or its successor in  
26           interest;

27       declaring the party's intention to proceed with final and binding  
28       arbitration administered by the American Arbitration Association  
29       under the American Arbitration Association's Commercial  
30       Arbitration Rules.

31       (b) Notice of intent to arbitrate shall be sent, as provided in  
32       subsection (a), not later than thirty-five (35) days after the existing  
33       wholesaler receives notice under section 6 of this chapter. The  
34       arbitration proceedings shall conclude not later than forty-five (45)  
35       days after the date the notice of intent to arbitrate is mailed to a  
36       party.

37       **Sec. 10. (a)** The arbitration shall be conducted in the city within  
38       Indiana that:

1           (1) is closest to the existing wholesaler; and

2           (2) has a population of more than fifty thousand (50,000).

3           (b) The arbitration shall be conducted before one (1) impartial  
4 arbitrator to be selected by the American Arbitration Association.  
5 The arbitration shall be conducted in accordance with the rules  
6 and procedures of the American Arbitration Association.

7           Sec. 11. The arbitrator's award must be monetary only and may  
8 not enjoin or compel conduct. The arbitration is instead of all other  
9 remedies and procedures.

10          Sec. 12. (a) The cost of the arbitrator and any other direct costs  
11 of the arbitration shall be equally divided by the parties engaged in  
12 the arbitration. All other costs shall be paid by the party incurring  
13 them.

14          (b) The arbitrator shall render a decision not later than thirty  
15 (30) days after the conclusion of the arbitration unless this time  
16 period is extended by mutual agreement of the parties or by the  
17 arbitrator. The decision of the arbitration is final and binding on  
18 the parties. Under no circumstances may the parties appeal the  
19 decision of the arbitrator.

20          (c) A party who fails to participate in the arbitration hearings  
21 waives all rights the party would have had in the arbitration and  
22 is considered to have consented to the determination of the  
23 arbitrator.

24          Sec. 13. If the existing wholesaler does not receive payment of  
25 the compensation under section 7 or 11 of this chapter not later  
26 than thirty (30) days after the date of the settlement or arbitration  
27 award:

28           (1) the existing wholesaler shall remain the distributor of the  
29 product in the existing wholesaler's territory to at least the  
30 same extent that the existing wholesaler distributed the  
31 product immediately before the successor acquired rights to  
32 the product; and

33           (2) the existing wholesaler is not entitled to the settlement or  
34 arbitration award.

35          Sec. 14. Nothing in this chapter shall be construed to limit or  
36 prohibit good faith settlements voluntarily entered into by the  
37 parties.

38          Sec. 15. Nothing in this chapter shall be construed to give the

existing wholesaler or a successor wholesaler any right to compensation if the existing wholesaler or successor wholesaler is terminated by the primary source of supply or predecessor source supplier either for failure to comply with any provision in the agreement to distribute the product or in accordance with IC 7.1-5-5-9.

SECTION 28. IC 7.1-4-4.1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The following biennial license fee is imposed for an employee's permit:

(1) ~~Five~~ **Fifteen** dollars ~~(\$5)~~ **(\$15)** if the permit is used only to perform volunteer service that benefits a nonprofit organization.

(2) Thirty dollars (\$30) if subdivision (1) does not apply.

The term of a biennial employee's license is two (2) years.

SECTION 29. IC 7.1-4-4.1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) This section applies to the following ~~seasonal or annual~~ **biennial** permits:

- (1) Beer retailer's permit.
- (2) Liquor retailer's permit.
- (3) Wine retailer's permit.
- (4) One-way permit.
- (5) Two-way permit.
- (6) Three-way permit.
- (7) Airplane beer permit.
- (8) Airplane liquor permit.
- (9) Airplane wine permit.
- (10) Boat beer permit.
- (11) Boat liquor permit.
- (12) Boat wine permit.
- (13) Dining car beer permit.
- (14) Dining car liquor permit.
- (15) Dining car wine permit.
- (16) Hotel seasonal permit.
- ~~(17) Supplemental retailer's permit.~~

(b) The commission shall charge a single fee for the issuance of any combination of retailer's permits issued for the same location or conveyance. ~~Except as provided in sections 10 and 11 of this chapter, the fee is equal to the sum of the amount determined under subsection (c) and the amount determined under subsection (d).~~

(c) An annual permit fee in the following amount is imposed on a retailer:

- (1) ~~Two hundred fifty~~ **Three hundred seventy-five** dollars ~~(\$250); (\$375)~~, if the retailer serves only beer or only wine.
- (2) ~~Five hundred~~ **Six hundred twenty-five** dollars ~~(\$500); (\$625)~~, if the retailer serves both beer and wine but no liquor.
- (3) ~~Seven hundred fifty~~ **One thousand three hundred fifty** dollars ~~(\$750); (\$1,350)~~, if the retailer serves beer, wine, and liquor.

(d) ~~An additional fee in the following amount is imposed on a retailer~~

- (1) ~~Two hundred fifty dollars (\$250); if the retailer under the authority of IC 7.1-3-16.5 sells food and any combination of beer, wine, or liquor on Sunday;~~
- (2) ~~One thousand five hundred dollars (\$1,500) if the retailer who is not under the authority of IC 7.1-3-16.5, sells any combination of beer, wine, or liquor on Sunday;~~

SECTION 30. IC 7.1-4-4.1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) This section applies to the following **biennial** permits:

- (1) Beer dealer's permit.
- (2) Liquor dealer's permit.
- (3) Malt dealer's permit.
- (4) Wine dealer's permit.

(b) The commission shall charge a single fee for the issuance of any combination of dealers' permits issued for the same location. The fee is equal to the sum of the amount determined under subsection (c).

(c) An annual permit fee in the following amount is imposed on a dealer:

- (1) ~~Two hundred fifty~~ **Three hundred seventy-five** dollars ~~(\$250); (\$375)~~, if the dealer sells only beer, only liquor, or only wine.
- (2) ~~Five hundred~~ **Six hundred twenty-five** dollars ~~(\$500); (\$625)~~, if the dealer sells:
  - (A) both beer and wine but no liquor;
  - (B) both wine and liquor but no beer; or
  - (C) both beer and liquor but no wine.
- (3) ~~Seven hundred fifty~~ **One thousand three hundred fifty**

1           dollars ~~(\$750)~~, **(\$1,350)**, if the dealer sells beer, wine, and liquor.

2           SECTION 31. IC 7.1-4-7-4 IS AMENDED TO READ AS  
3           FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Except as  
4           provided in subsection (b), the chairman and the department shall  
5           deposit the money collected under sections 1, 2, and 3 of this chapter  
6           daily with the treasurer of state, and not later than the fifth day of the  
7           following month shall cover: ~~them~~

8                   **(1) thirty-four percent (34%) of the money collected under**  
9                   **section 1 of this chapter into the enforcement and**  
10                  **administration fund established under IC 7.1-4-10-1; and**

11                  **(2) sixty-six percent (66%) of the money collected under**  
12                  **section 1 of this chapter and money collected under sections 2**  
13                  **and 3 of this chapter into the state general fund of state for state**  
14                  **general fund purposes.**

15           (b) The chairman and the department shall deposit ~~the~~ **all** money  
16           collected under IC 7.1-2-5-3, IC 7.1-2-5-8, IC 7.1-3-17.5,  
17           IC 7.1-3-17.7, IC 7.1-3-22-9, and IC 7.1-4-4.1-5 daily with the  
18           treasurer of state, and not later than the fifth day of the following month  
19           shall cover ~~them~~ **the money** into the enforcement and administration  
20           fund established under IC 7.1-4-10-1.

21           SECTION 32. IC 7.1-4-9-1 IS AMENDED TO READ AS  
22           FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. ~~Collection of~~  
23           ~~Annual License Fees~~. The chairman shall collect the required annual  
24           license fee paid in connection with the issuance of a beer retailer's  
25           permit, a beer dealer's permit, a liquor retailer's permit, a supplemental  
26           caterer's permit, a liquor dealer's permit, a wine retailer's permit, and a  
27           wine dealer's permit. ~~and a supplemental retailer's permit.~~

28           SECTION 33. IC 7.1-4-9-3 IS AMENDED TO READ AS  
29           FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. ~~Fees Deposited in~~  
30           ~~Excise Fund~~. **(a) Except as provided in subsection (b),** the chairman  
31           shall deposit the monies collected under the authority of this chapter  
32           daily with the treasurer of the state, and not later than the fifth day of  
33           the following month shall cover them into the "excise fund" to be  
34           distributed as provided in this chapter.

35                  **(b) The chairman shall deposit the money received from the**  
36                  **collection of the fees for a three-way permit under IC 7.1-3-20-16(g)**  
37                  **daily with the treasurer of state, and not later than the fifth day of**  
38                  **the following month shall transfer the money into the enforcement**

1 **and administration fund of the commission under IC 7.1-4-11.**

2 SECTION 34. IC 7.1-4-9-4 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. ~~Distribution to~~  
4 ~~State General Fund. Thirty-three and one-third percent (33 1/3%)~~  
5 **Twenty-five percent (25%)** of the ~~monies~~ **money** in the excise fund  
6 shall be deposited in the state general fund on the first day of June and  
7 the first day of December of each year.

8 SECTION 35. IC 7.1-4-9-7 IS AMENDED TO READ AS  
9 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. ~~Distribution to~~  
10 ~~Cities and Towns. Sixty-six and two-thirds percent (66 2/3%)~~  
11 **Twenty-five percent (25%)** of the ~~monies~~ **money** in the excise fund  
12 shall, upon warrant of the state auditor, be paid into the general fund of  
13 the treasury of the city or town in which the retailer's or dealer's  
14 licensed premises are located. The money shall be paid to the treasurer  
15 of the county in which the retailer's or dealer's premises are located if  
16 they are located outside the corporate limits of a city or town.

17 SECTION 36. IC 7.1-4-9-7.5 IS ADDED TO THE INDIANA  
18 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
19 [EFFECTIVE UPON PASSAGE]: **Sec. 7.5. Fifty percent (50%) of**  
20 **the money in the excise fund shall be deposited in the enforcement**  
21 **and administration fund under IC 7.1-4-10 on the first day of June**  
22 **and the first day of December of each year.**

23 SECTION 37. IC 7.1-4-11-2.5 IS ADDED TO THE INDIANA  
24 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
25 [EFFECTIVE JULY 1, 2005]: **Sec. 2.5. The chairman shall deposit**  
26 **the money received from the collection of the fees for a three-way**  
27 **permit under IC 7.1-3-20-16(g) daily with the treasurer of state,**  
28 **and not later than the fifth day of the following month shall**  
29 **transfer the money into the enforcement and administration fund.**

30 SECTION 38. IC 7.1-5-5-7 IS AMENDED TO READ AS  
31 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) It is unlawful  
32 for a permittee in a sale or contract to sell alcoholic beverages to  
33 discriminate between purchasers by granting a price, discount,  
34 allowance, or service charge which is not available to all purchasers at  
35 the same time. However, this section does not authorize or require a  
36 permittee to sell to a person to whom ~~he~~ **the permittee** is not  
37 authorized to sell under this title.

38 (b) A premises that operates at least two (2) restaurants that are



1 separate and distinct from each other on the same premises may provide  
 2 for a different schedule of prices in each restaurant if each restaurant  
 3 conforms to all other laws and rules of the commission regarding  
 4 pricing and price discrimination in its separate and distinct areas.

5 (c) This section does not apply to the holder of an excursion and  
 6 adjacent landsite permit that complies with IC 7.1-3-17.5-6.

7 **(d) Notwithstanding subsection (a), a beer wholesaler may offer**  
 8 **a special discount price to a beer dealer or beer retailer for beer or**  
 9 **flavored malt beverage, if the beer or flavored malt beverage:**

10 **(1) is a brand or package the beer wholesaler has**  
 11 **discontinued; or**

12 **(2) will expire in not more than:**

13 **(A) twenty (20) days for packaged beer or packaged**  
 14 **flavored malt beverage; and**

15 **(B) ten (10) days for draft beer or draft flavored malt**  
 16 **beverage.**

17 **(e) The special discount under subsection (d) only applies to beer**  
 18 **or flavored malt beverage that will expire and be subject to**  
 19 **removal from retailer or dealer shelves in accordance with the**  
 20 **primary source of supply's coding data clearly identified on the**  
 21 **container.**

22 **(f) Any beer or flavored malt beverage sold at a special discount**  
 23 **price under subsection (d) shall be accompanied by an invoice**  
 24 **clearly designating, in addition to all other information required by**  
 25 **law, all the following information:**

26 **(1) The date of delivery.**

27 **(2) The expiration date of each brand, package type, and**  
 28 **quantity delivered.**

29 **(3) The per unit price for each package.**

30 SECTION 39. IC 7.1-5-5-9 IS AMENDED TO READ AS  
 31 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. ~~Unrequitable~~  
 32 ~~Termination of Contract Prohibited.~~ It is unlawful for a beer wholesaler  
 33 or a brewer in this state, or a brewer or other person located outside this  
 34 state who sells beer to a permittee in this state for the purpose of  
 35 importation and resale within this state **primary source of supply to:**

36 **(1) coerce, or attempt to coerce, or persuade a beer wholesaler to**  
 37 **enter into an agreement, or to take an action, which will violate,**  
 38 **or tend to violate, a provision of this title or of the rules and**

1 regulations of the commission; or

2 (2) cancel or terminate an agreement or contract between a beer  
3 wholesaler and a ~~brewer~~ **primary source of supply** for the sale of  
4 beer, unfairly and without due regard for the equities of the other  
5 party.

6 SECTION 40. IC 7.1-5-5-11 IS AMENDED TO READ AS  
7 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) Except as  
8 provided in ~~subsection~~ **subsections (c) and (d)**, it is unlawful for a  
9 manufacturer of alcoholic beverages or a permittee authorized to sell  
10 and deliver alcoholic beverages to:

11 (1) give, supply, furnish, or grant to another permittee who  
12 purchases alcoholic beverages from him a rebate, sum of money,  
13 accessory, furniture, fixture, loan of money, concession, privilege,  
14 use, title, interest, lease, or rental of premises; or

15 (2) except as provided in IC 7.1-3-2-9 and IC 7.1-3-3-5(f), have  
16 a business dealing with the other permittee.

17 (b) This section shall not apply to the sale and delivery and  
18 collection of the sale price of an alcoholic beverage in the ordinary  
19 course of business.

20 (c) If the promotional program is approved under the rules adopted  
21 by the commission and is conducted in all wholesaler establishments  
22 through which the manufacturer distributes alcoholic beverages in  
23 Indiana, a manufacturer of alcoholic beverages may award bona fide  
24 promotional prizes and awards to any of the following:

25 (1) A person with a wholesaler's permit issued under IC 7.1-3.

26 (2) An employee of a person with a wholesaler's permit issued  
27 under IC 7.1-3.

28 **(d) A manufacturer may offer on a nondiscriminatory basis**  
29 **bona fide incentives to wholesalers when the incentives are**  
30 **determined based on sales to retailers or dealers occurring during**  
31 **specified times for specified products. The incentive may be**  
32 **conditioned on the wholesaler selling a:**

33 **(1) specified product at a specified price or less than a**  
34 **specified price; or**

35 **(2) minimum quantity of a specified product to a single**  
36 **customer in a single transaction.**

37 **The incentive may not be conditioned on a wholesaler having total**  
38 **sales of a minimum quantity of a specified product during the**

1       **applicable period.**

2       SECTION 41. IC 7.1-5-7-11 IS AMENDED TO READ AS  
3       FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) The  
4       provisions of sections 9 and 10 of this chapter shall not apply if the  
5       public place involved is one (1) of the following:

- 6           (1) Civic center.
- 7           (2) Convention center.
- 8           (3) Sports arena.
- 9           (4) Bowling center.
- 10          (5) Bona fide club.
- 11          (6) Drug store.
- 12          (7) Grocery store.
- 13          (8) Boat.
- 14          (9) Dining car.
- 15          (10) Pullman car.
- 16          (11) Club car.
- 17          (12) Passenger airplane.
- 18          (13) Horse racetrack facility holding a recognized meeting permit  
19          under IC 4-31-5.
- 20          (14) Satellite facility (as defined in IC 4-31-2-20.5).
- 21          (15) Catering hall under IC 7.1-3-20-24 that is not open to the  
22          public.
- 23          (16) That part of a hotel or restaurant which is separate from a  
24          room in which is located a bar over which alcoholic beverages are  
25          sold or dispensed by the drink.
- 26          (17) Entertainment complex.
- 27          (18) Indoor golf facility.
- 28          (19) A recreational facility such as a golf course, bowling center,  
29          or similar facility ~~to which IC 7.1-3-16.5-2(c) applies. that has~~  
30          **the recreational activity and not the sale of food and beverages**  
31          **as the principal purpose or function of the person's business.**
- 32          (20) A licensed premises owned or operated by an educational  
33          institution of higher learning (as defined in IC 20-12-15-1).
- 34          (21) An automobile racetrack.
- 35       (b) For the purpose of this subsection, "food" means meals prepared  
36       on the licensed premises. It is lawful for a minor to be on licensed  
37       premises in a room in which is located a bar over which alcoholic  
38       beverages are sold or dispensed by the drink if all the following

1 conditions are met:

- 2 (1) The minor is eighteen (18) years of age or older.
- 3 (2) The minor is in the company of a parent, guardian, or family
- 4 member who is twenty-one (21) years of age or older.
- 5 (3) The purpose for being on the licensed premises is the
- 6 consumption of food and not the consumption of alcoholic
- 7 beverages.".

8 Page 6, between lines 18 and 19, begin a new paragraph and insert:

9 "SECTION 43. IC 7.1-5-8-11 IS ADDED TO THE INDIANA  
10 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
11 [EFFECTIVE JULY 1, 2005]: **Sec. 11. (a) A person who:**

- 12 (1) purchases;
- 13 (2) offers for sale; or
- 14 (3) possesses;
- 15 **an alcohol vaporizing device or vaporized alcohol commits**
- 16 **possession, sale, or purchase of vaporized alcohol or vaporized**
- 17 **alcohol paraphernalia, a Class A infraction.**

18 (b) A person who:

- 19 (1) knowingly or intentionally violates subsection (a); and
- 20 (2) has a prior unrelated judgment or conviction under this
- 21 section;
- 22 **commits a Class A misdemeanor.**

23 SECTION 44. IC 7.1-3-16.5 REPEALED [EFFECTIVE UPON  
24 PASSAGE].

25 SECTION 45. [EFFECTIVE JULY 1, 2005] **IC 7.1-5-8-11, as**

1       **added by this act, applies only to acts committed after June 30,**  
2       **2005."**

3       Renumber all SECTIONS consecutively.  
      (Reference is to SB 382 as reprinted February 23, 2005.)

**and when so amended that said bill do pass.**

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Representative Alderman